

petitioners accordingly insist, that said sum be charged with interest thereon from the 31st December, 1812.

18th January, 1831.—BLAND, Chancellor.—The exceptions to the auditor's report standing ready for hearing, and the solicitors of the parties having been fully heard, the proceedings were read and considered.

Before we proceed it may be well to take a retrospective view of the proceedings in this case to see how the present litigants, by the consequences of, and the allowable ingraftments upon the original suit, have come in, or been brought before the court, in order, that we may the more clearly understand the relative positions which they hold, and the nature of the present controversy.

The original bill was filed by a creditor in behalf of himself and the other creditors of *Richard Jordan*, deceased, to have his real estate sold for the payment of his debts. That real estate was sold accordingly. Sundry other creditors came in, and established their claims, and a distribution of the proceeds of that sale, so far as was necessary to satisfy all those creditors, has been made among them. The original bill, as to them, has performed its office; and the suit, as to the original plaintiff and all others who became associated with him, for a similar purpose, has been thus brought to a final conclusion.

It appears, however, by the order of the 23d of February, 1822, that although the proceeds of sale were amply sufficient to pay all the creditors; yet, as all the moneys which had been brought into court, by the trustee, had been applied as directed; it became necessary to authorize the purchaser to pay the last of the claims which had been brought in and established; because of the trustee's being then dead. It being deemed safe and convenient upon that, as on former occasions, to authorize a payment directly from the purchaser to a creditor, or party, or even the assignment to a creditor, or party of the purchasers' bonds, without requiring the proceeds to be collected by and passed through the hands of a trustee in payment. (a)

But before the original cause of suit had been thus brought to a conclusion by the payment of all the debts of the intestate *Jordan*, the trustee having died, and there appearing to be a large amount of the purchase money still remaining unpaid, to be collected and passed over to the then infant, now adult, heirs of the deceased

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(a) *Spurrier v. Spurrier*, 1 Bland, 475; *Kilty v. Quynn*, ante 212.